



St. Joseph County Public Library

304 S. Main Street South Bend, IN 46601 574.282.4600

February 20, 2013

REQUEST FOR REVIEW

CC Docket No 02-6

E-Rate Appeal Filed Electronically via the FCC ECFS System

Marlene H. Dortch, Secretary

Federal Communications Commission

Office of the Secretary

445 12th Street SW

Washington, DC 20554

Information

Applicant Name:	St. Joseph County Public Library
Billed Entity Number:	130399
Funding Year:	2011
Form 471 Application:	817673
Funding Request Number:	2224209
Service:	Telecommunications Service
Service Provider:	Indiana Bell Telephone Company (SPIN: 143004642)

To Whom It May Concern:

This is an appeal of the denial of the Administrator's Decision on Appeal – Funding Year 2011 – dated January 8, 2013, in connection with FRN 2224209 on 471 Application Number 817673. A copy of the Administrator's Decision of Appeal is attached hereto as Exhibit B.

Text Being Requested for Review:

- The Form 470 cited does not define the specific locations associated with the funding request, and you did not provide this information to a potential bidder as requested during the 28 day waiting period. Because you did not provide this information to a potential bidder, you did not conduct a fair and open competitive bidding process and funding remains denied.



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Appeal Review Request:

St. Joseph County Public Library is appealing USAC's denial of FRN 2224209, on the premise that the Form 470 #389760000857960 utilized in the bidding process met the spirit of the requirements for an open and fair bidding process as required by USAC through their website, Applicant Training conducted by USAC Senior Management, and Weekly USAC News Briefs. The basic requirements are found on the USAC Schools and Libraries (E-Rate) at

<http://www.universalservice.org/sl/applicants/step02/default.aspx>. The requirements include:

- 1) Clear about the products, services, and quantities the applicant was seeking
- 2) All Bidders were treated the same
- 3) No bidder had advance knowledge of the project information
- 4) There were no secrets in the process, ie. Information shared with one bidder but not with others – and all bidders knew what was required of them

These requirements are reinforced at Applicant Training conducted by the USAC Senior Management and through the weekly New Brief written by USAC staff.

The 470 #389760000857960 met the requirements prescribed by USAC for open and fair bidding. The posted 470 did not interfere with the competitive bidding process as evidenced by the receipt of two (2) bids by St. Joseph County Public Library, one from AT&T and the other from Comcast.

The following exhibits provide evidence that an open, fair and competitive bidding process was conducted. The exhibits also provide evidence that at no time did USAC give guidance that listing the specific locations was a requirement of the FCC Form 470 posting. In essence, the posted 470 assured all potential bidders and service providers had access to the same information and were treated in the same manner throughout the procurement process.

The St. Joseph County Public Library believes according to the attached Exhibits, USAC erred in denying support and the library believes special consideration to the Exhibits clearly show there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, the library believes that the denial of E-Rate funds for the full funding year inflicts undue hardship and approval for FRN 2224209 would better serve the public interest.

Attached documents which support The Request for Review:

- **Exhibit A**– Copy of Letter of Appeal to USAC – February 23, 2012
- **Exhibit B** – USAC Administrator's Decision on Appeal FY 2011-2012 – January 8, 2013. Please note the length of time USAC took to issue this letter. In the appeal we attempted to demonstrate our intent to follow instructions received through USAC national applicant training and USAC News Briefs. The length of time for the USAC decision is concerning due to the fact the public interest is not being served and inflicts undue hardship.
- **Exhibit C**– The FCC Form 470 #389760000857960 that was posted 10/29/2010 on behalf of St. Joseph County Public Library. This posting is consistent with hundreds of similar postings we have done since the inception of the program and has never deterred responses from potential bidders.
- **Exhibit D** – Copy of two proposals received based on FCC Form 470 #389760000857960 that was posted 10/29/2010 on behalf of St. Joseph County Public Library. Both service providers submitted proposals based on the posted FCC Form 470. No other additional information was provided to assure all potential bidders had access to the same information and were treated in



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the same manner throughout the procurement process. It is evident based upon the two bids submitted that the two bidders found the 470 described the requested services with sufficient specificity to enable potential service providers to submit bids for such services.

- **Exhibit E** – PowerPoint Slides from Fall 2010 Applicant Training conducted by USAC Senior Management Team Fall for FY2011. The training led attendees to conclude that it was the applicant's responsibility to "ensure everyone knows the same thing." We took this responsibility seriously while at the same time not discouraging potential bidders from submitting proposals in response to the FCC Form 470 posting.
- **Exhibit F** – Email string from service provider requesting information and our responses. Our response was based on information received at Applicant Training conducted by USAC Senior Management September/October 2009 and underscored our intent to ensure everyone has the same information. While the service provider authored his opinion of how we should respond to his request we wanted to assure that all potential bidders have access to the same information and be treated in the same manner throughout the procurement process. It is our belief our response was consistent with training we and other applicants received from the USAC Senior Management Team.
- **Exhibit G** – October 1, 2010 Schools and Libraries News Brief outlines "Competitive Bidding Process" and "Competitive Bidding Process Rules Violation Include (But Are Not Limited To)." The FCC Form 470 #389760000857960 met the spirit of the information in this News Brief and in successive News Briefs dated December 3, 2010 (section titled "examples of acceptable and unacceptable descriptions"), January 28, 2011 (section titled "How Specific should I be about the scope of my project"), and February 4, 2011 (section titled "Application Process: Form 470"). Sections of these News Briefs are included as part of this exhibit. These News Briefs taken together suggest that as long as the 470 describes the requested services with sufficient specificity to enable potential service providers to submit bids for such services, that all potential bidders have access to the same information and are treated in the same manner then the spirit and intent of the Commission's competitive bidding requirements were being met. It is our belief that FCC Form 470 #389760000857960 and our actions met this standard.

REQUEST FOR WAVIER OF FCC RULES

The St. Joseph County Public Library believes that it complied with E-Rate program competitive bidding requirements and that it delivered sufficient evidence of compliance to USAC. At a minimum, we believe that we have demonstrated a good faith effort to comply with all program rules and to deny funding for FRN 2224209 would be an excessive penalty, given the spirit and intent of the program and our good faith efforts. I respectfully request a wavier of the rules with respect to which non-compliance is found by the Commission, and find it is in the public interest to provide the requested relief.

Specifically, St. Joseph County Public Library requests that the FCC find that St. Joseph County Public Library FCC Form 470 contained enough detail, as prescribed by the FCC, for vendors to identify the desired services and to formulate bids. Thus, all bidders were on a level playing field and that there was no actual harm to the competitive bidding process. In essence, all potential bidders and service providers had access to the same information and were treated in the same manner throughout the procurement process. I further request that the funding commitment be fully provided for FRN 2224209.



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Thank you for your time and consideration. You are hereby authorized to contact our E-Rate Contact, Tammy Condon, if you have questions concerning this appeal or require additional information. Her contact information is as follows:

Authorized person who can best discuss this Appeal:

Tammy Condon

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(preferred mode of contact)

Authorized Signature:

Nancy Korpel – Financial Services Administrator, St. Joseph County Public Library